

Translation

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PATENT COOPERATION TREATY

PCT/EP2003/051029



PCT

INTERNATIONAL PRELIMINARY EXAMINATION REPORT

(PCT Article 36 and Rule 70)

Applicant's or agent's file reference 2228PCT/PV	<b>FOR FURTHER ACTION</b> See Notification of Transmittal of International Preliminary Examination Report (Form PCT/IPEA/416)	
International application No. PCT/EP2003/051029	International filing date (day/month/year) 16 décembre 2003 (16.12.2003)	Priority date (day/month/year) 08 janvier 2003 (08.01.2003)
International Patent Classification (IPC) or national classification and IPC G04B 37/00		
Applicant ASULAB S.A.		

1. This international preliminary examination report has been prepared by this International Preliminary Examining Authority and is transmitted to the applicant according to Article 36.

2. This REPORT consists of a total of 6 sheets, including this cover sheet.

☒ This report is also accompanied by ANNEXES, i.e., sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications made before this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions under the PCT).

These annexes consist of a total of 1 sheets.

3. This report contains indications relating to the following items:

- I ☒ Basis of the report
- II ☐ Priority
- III ☐ Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- IV ☐ Lack of unity of invention
- V ☒ Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- VI ☐ Certain documents cited
- VII ☐ Certain defects in the international application
- VIII ☐ Certain observations on the international application

Date of submission of the demand 12 juillet 2004 (12.07.2004)	Date of completion of this report 29 April 2005 (29.04.2005)
Name and mailing address of the IPEA/EP	Authorized officer
Facsimile No.	Telephone No.

# INTERNATIONAL PRELIMINARY EXAMINATION REPORT

International application No.

PCT/EP2003/051029

## I. Basis of the report

### 1. With regard to the elements of the international application:\*

- ☐ the international application as originally filed
- ☒ the description:  
 pages \_\_\_\_\_ 1-5 \_\_\_\_\_, as originally filed  
 pages \_\_\_\_\_, filed with the demand  
 pages \_\_\_\_\_, filed with the letter of \_\_\_\_\_
- ☒ the claims:  
 pages \_\_\_\_\_ 2 \_\_\_\_\_, as originally filed  
 pages \_\_\_\_\_, as amended (together with any statement under Article 19  
 pages \_\_\_\_\_ 1, 3-6 \_\_\_\_\_, filed with the demand  
 \_\_\_\_\_, filed with the letter of 05 April 2005 (05.04.2005)
- ☒ the drawings:  
 pages \_\_\_\_\_ 1/6-6/6 \_\_\_\_\_, as originally filed  
 pages \_\_\_\_\_, filed with the demand  
 \_\_\_\_\_, filed with the letter of \_\_\_\_\_
- ☐ the sequence listing part of the description:  
 pages \_\_\_\_\_, as originally filed  
 pages \_\_\_\_\_, filed with the demand  
 \_\_\_\_\_, filed with the letter of \_\_\_\_\_

### 2. With regard to the language, all the elements marked above were available or furnished to this Authority in the language in which the international application was filed, unless otherwise indicated under this item. These elements were available or furnished to this Authority in the following language \_\_\_\_\_ which is:

- ☐ the language of a translation furnished for the purposes of international search (under Rule 23.1(b)).
- ☐ the language of publication of the international application (under Rule 48.3(b)).
- ☐ the language of the translation furnished for the purposes of international preliminary examination (under Rule 55.2 and/or 55.3).

### 3. With regard to any nucleotide and/or amino acid sequence disclosed in the international application, the international preliminary examination was carried out on the basis of the sequence listing:

- ☐ contained in the international application in written form.
- ☐ filed together with the international application in computer readable form.
- ☐ furnished subsequently to this Authority in written form.
- ☐ furnished subsequently to this Authority in computer readable form.
- ☐ The statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished.
- ☐ The statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished.

### 4. ☐ The amendments have resulted in the cancellation of:

- ☐ the description, pages \_\_\_\_\_
- ☐ the claims, Nos. \_\_\_\_\_
- ☐ the drawings, sheets/fig \_\_\_\_\_

### 5. ☐ This report has been established as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).\*\*

\* Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report since they do not contain amendments (Rule 70.16 and 70.17).

\*\* Any replacement sheet containing such amendments must be referred to under item 1 and annexed to this report.

# INTERNATIONAL PRELIMINARY EXAMINATION REPORT

International application No.  
PCT/EP 03/51029

## V. Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

### 1. Statement

Novelty (N)	Claims	1-6	YES
	Claims		NO
Inventive step (IS)	Claims		YES
	Claims	1-6	NO
Industrial applicability (IA)	Claims	1-6	YES
	Claims		NO

### 2. Citations and explanations

#### 1. Reference is made to the following documents:

D1: EP-A-0 899 634 (ASULAB SA) 3 March 1999 (1999-03-03)

D2: EP-A-1 056 260 (NOKIA MOBILE PHONES LTD) 29 November 2000 (2000-11-29)

D3: DE-A-100 32 697 (WATZEK T) 1 April 2001 (2001-04-05)

#### 2. The present application fails to comply with the requirements of PCT Article 33(1) since the subject matter of claim 1 does not meet the requirement of inventive step defined in PCT Article 33(3).

##### 2.1 Document D1, which is considered to be the prior art closest to the subject matter of claim 1, describes (the reference signs between parentheses apply to this document):

A telephone watch (§9)  
comprising at least one control member (figure 1)  
and a casing (2)  
having a transmitting electroacoustic transducer  
(§25) mounted therein

in direct communication with the outside (abstract) via at least one outlet channel (15, §12) of which the opening is located on the same side of the casing as the control member relative to the 6 o'clock to 12 o'clock axis.

- 2.2 It follows that the subject matter of claim 1 differs from this known telephone watch in that:

The telephone watch includes two outlet channels with openings on either side of one of said control members and on the same side of the casing relative to the 6 o'clock to 12 o'clock axis.

- 2.3 The problem that the present invention is intended to solve can thus be considered to be that of enhancing the acoustic properties.

- 2.4 The solution proposed in claim 1 of the present application is not considered to involve an inventive step (PCT Article 33(3)), for the following reasons:

Document D2 teaches the principle of a plurality of channels (figure 3, part 2), but the positioning of the outlet channels in claim 1 appears to be arbitrary and to have no specific advantage over the prior art, meaning that a person skilled in the art would apply it to the teaching of document D1 and thereby arrive at the combination of features claimed.

3. Dependent claims 2 to 5 do not contain any features which, when combined with the features of any one of the claims to which they refer, might define subject

matter that complies with the requirements of inventive step of the PCT (see documents D1 and D2 and the corresponding passages cited in the search report).

Specifically:

The subject matter of claim 2 is known from document D1 (abstract).

The subject matter of claim 3 appears to be arbitrary.

The subject matter of claim 4 is a routine solution in telephone watches (see, e.g., document D2, figure 3, \$0022; it should also be noted that the inlet channel for the microphone is diametrically opposite the speaker channels, meaning that if a person skilled in the art had used the arrangement of the input channels as per claim 1, he or she would have arranged the microphone channel on the opposite side).

The subject matter of claim 5 is known from document D1 (claim 12).

4. Furthermore, the present application fails to comply with the requirements of PCT Article 33(1) since the subject matter of claim 6 does not involve an inventive step as defined in PCT Article 33(3).
5. Document D3, which is considered to be the prior art closest to the subject matter of claim 6, describes (the reference signs between parentheses apply to this document):

The use, for the purpose of a telephone conversation, of a telephone watch in which the output channels of the transmitting electroacoustic

transducer (figure 1; part 2) and the receiving electroacoustic transducer (1) face the user's ear and mouth, respectively (column 2, lines 39-42), and which can be worn on the inside of the user's wrist (column 2, lines 35-36; figure 2) so that when the user's hand is cupped over his or her ear, it acts as a sounding box for the transmitting electroacoustic transducer (column 2, lines 35-45).

- 5.1 It follows that the subject matter of claim 1 differs from this known use in that:

The telephone watch is as per one of claims 4 and 5.

- 5.2 The problem that the present invention is intended to solve can thus be considered to be that of dispensing with the cantilever arm for the speaker.

- 5.3 The solution proposed in claim 6 of the present application is not considered to involve an inventive step (PCT Article 33(3)), for the following reasons:

The telephone watch as per claims 4 and 5 is not inventive (see above). It follows that incorporating it into the known use described in document D1 cannot be considered inventive as a solution to the stated problem.